

REMARKS

Applicant for the above-identified application files this preliminary amendment in response to the attached Decision Granting Petition ("Decision") for filed a petition on July 27, 2004, wherein Applicant stated that the drawings had been included with the originally filed application, and further requesting that the April 1, 2004 filing date be accorded to the application. See Attachment A, Decision. However, Applicant files this preliminary amendment in protest, because Applicant's position remains that the attached set of drawings are not additional drawings, but are the drawings originally filed on April 1, 2004. Therefore, Applicant believes that the Decision should have granted Applicant full relief.

In summary, on April 1, 2004, Applicant deposited the above-identified application with the United States Patent and Trademark Office. On April 12, 2004, Applicant received a postcard stamped by the United States Patent and Trademark Office. See Attachment B, Postcard. As shown, the postcard included a listing of the contents of the nonprovisional application deposited on April 1, 2004. This listing specifically included "Formal Drawings." As further shown, the United States Patent and Trademark Office did not strike through or otherwise indicate that the set of drawings was missing.

Subsequently, a Notice of Incomplete Nonprovisional Application was mailed on July 22, 2004 stating that the drawings were missing from the application. See Attachment C, Notice. Applicant thereafter filed the attached Petition, which included both the stamped postcard and a copy of the entire application that was deposited on April 1, 2004. See Attachment D, Petition. On September 9, 2004, the United States

Patent and Trademark Office mailed a copy of the Decision granting Applicant's request to retain the April 1, 2004 filing. However, the Decision stated that the drawings were still not found with the application papers, and that the filing date had been retained because Applicant included a method claim, claim 13, in the originally filed set of claims. Further, the Decision stated that the itemization of the postcard was lacking in that it did not indicate how many sheets of drawings were received. Even if the postcard is lacking on this issue, the United States Patent and Trademark Office still stamped the postcard without reference to missing drawings thereby indicating that at least one drawing sheet had been received. Applicant would understand if the Notice of Incomplete Nonprovisional Application had stated that one or more of the listed drawing sheets indicated as originally filed were missing. However, this Notice stated that no drawings were deposited, which is wholly inconsistent with the stamped postcard. Not only has the misplacement of Applicant's drawings jeopardized, if not sacrificed, Applicant's filing date as to the apparatus claims, but it has also required Applicant to incur at least \$130.00 in petition fees.

Accordingly, Applicant now requests that confirmation of either of the following be received as soon as possible: 1) the April 1, 2004 filing date that has been accorded to claim 13 is the same filing date accorded to the remaining claims of the application; or 2) the attached drawings are entered and will be accorded the April 1, 2004 filing date, thereby enabling the remaining apparatus claims as of this date.

Respectfully submitted,

Dated: September 28, 2004

A handwritten signature in cursive script, reading "Sara Centioni", written in dark ink. The signature is positioned above a horizontal line.

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